

Court of Appeals, State of Michigan

ORDER

People of MI v George Jreij

Docket No. 285949

LC No. 07-005546-FH

Kirsten Frank Kelly
Presiding Judge

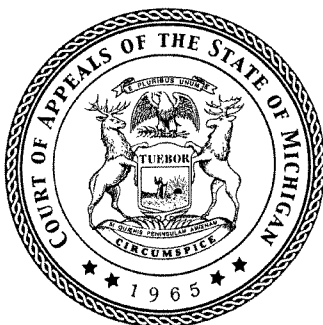
Michael J. Talbot

Karen M. Fort Hood
Judges

The Court orders that the motion to file a late answer is GRANTED.

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the May 6, 2008, order of the Wayne Circuit Court dismissing the charge against defendant hereby is VACATED. In this case, defendant pleaded guilty to the misdemeanor charge and the court accepted defendant's plea. The court then delayed sentencing pursuant to MCL 771.1(2). At sentencing on May 6, 2008, the court dismissed the misdemeanor charge over the prosecution's objection. Once it accepted the plea, the trial court was bound to abide by the terms of the plea agreement, which did not include the dismissal of the misdemeanor charge to which defendant pleaded guilty. *People v Arriaga*, 199 Mich App 166, 168; 501 NW2d 200 (1993). Further, the plain language of MCL 771.1(2) does not provide authority for the trial court to dismiss the charge against defendant. See *People v Leonard*, 144 Mich App 492; 375 NW2d 745 (1985); *People v Monday*, 70 Mich App 518, 522; 245 NW2d 811 (1976). The court cited no other legal authority giving it the power to dismiss a charge, over the prosecution's objection, to which defendant pleaded guilty. The case is REMANDED to the circuit court reinstatement of defendant's guilty plea conviction and sentencing.

This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

OCT 23 2008

Date

Sandra Schultz Mengel
Chief Clerk